REMARKS

Request to Withdraw Finality of Office Action – MPEP §706.07(a)

The examiner made a new rejection under 35 USC §103 based on a new prior art reference cited by the examiner (Trieger US 6,226,750). The new ground of rejection was not necessitated by the previous amendments to the claims. Therefore, the finality of the current office action should be withdrawn (see MPEP §706.07(a)).

The examiner asserts that the final office action is appropriate under MPEP §609(B)(2) because the applicant submitted an IDS with fee under 37 CFR §1.17(p). However, MPEP §609(B)(2)(a)(ii) clearly states that "Where the information is submitted during this period with a fee as set forth in 37 CFR 1.17(p), the examiner may use the information submitted, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP §706.07(a)." As stated above, the examiner's rejection is based on a new prior art reference cited by the examiner (Trieger US 6,226,750), which is a new ground of rejection introduced by the examiner and not necessitated by an amendment to the claims. Therefore the finality of the present office action should be withdrawn.

The applicant respectfully requests the examiner issue another office action addressing the following remarks.

Claim Rejections - 35 USC §103

The examiner rejected claims 1-16 under 35 USC §103(a) as unpatentable over Trieger (US 6,226,750) in view of Stokes. (US 6,473,861) and further in view of Burns et al (US 5,931,947). The applicant respectfully disagrees.

With respect to Claims 1 and 9, the examiner asserts that Trieger discloses a secure disk drive for receiving an encrypted message from a client disk drive, the

encrypted message comprising ciphertext data and a device ID identifying the client disk drive. The examiner further asserts that Trieger discloses a secure disk drive that generates a client drive key based on the client drive ID for use in authenticating the client drive ID. The examiner concedes that Trieger does not disclose to generate the client drive key based on a secure drive key that is part of the secure disk drive. The examiner asserts that since Stokes discloses a secure disk drive that employs a secure drive key, Trieger could be modified in view of Stokes to arrive at the invention recited in the claims. The applicant respectfully disagrees.

The secure drive keys disclosed by Stokes are for use in encrypting/decrypting data internal to the disk drive (col. 3, line 5 to col. 4, line 12). Nowhere does Stokes disclose or suggest to use the secure drive keys to facilitate secure communications with another disk drive (a client disk drive). In particular, nowhere does Stokes disclose or suggest to generate a client drive key based on a client drive ID and a secure drive key, or to verify the authenticity of an encrypted message received from a client disk drive in response to the encrypted message and the client drive key.

Contrary to the Examiner's assertions, the internal encryption/decryption technique disclosed by Stokes using a secure drive key does not suggest modification of the password technique of authenticating a user disclosed by Trieger so that a secure drive key may be used in Trieger to authenticate. In fact, modifying Trieger in view of Stokes would result in a disk drive that uses a secure drive key to facilitate encrypting/decrypting data, not a disk drive that uses a secure drive key to verify the authenticity of an encrypted message received from a client disk drive.

At col. 8, lines 13-67, Stokes discloses a number of different methods for authenticating an end user, such as a pass-word, or digital voice/phrase recognition. But none of these techniques involves the generation of a client drive key based on a client drive ID and a secure drive key, nor do any of these techniques verify the authenticity of an encrypted message in response to the encrypted message and the client drive key.

Therefore, the examiner's assertion that the combination of Stokes and Trieger discloses or suggests the form of authentication recited in the claims is incorrect.

The examiner asserts that the modification taught by the applicant would be desirable to add an "additional layer of protecting access by validating user ID or key based on drive keys." However, "the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." In re Fritch 972 F.2d 1260; 23 U.S.P.Q.2D (BNA) 1780 (1992). Since none of the relied upon prior art suggests the desirability of generating a client drive key based on a client drive ID and a secure drive key, or of verifying the authenticity of an encrypted message in response to the encrypted message and the client drive key, the rejection should be withdrawn.

The examiner asserts that Burns discloses a reply that may also contain an internal drive ID so that devices can authenticate each other. This interpretation of Burns is incorrect. Burns discloses a secure disk drive for authenticating messages received from a client user or subscriber and does not disclose devices authenticating each other. (See Abstract, wherein "all encryption is done by the clients, rather than by the devices.") As discussed by the applicant in the specification at page 4, lines 4-6, in Burns, "the keys used by the clients for encrypting data and generating the message authentication codes are generated external to the devices by a system administrator which is susceptible to attack." Since Burns does not disclose or suggest a reply output for outputting reply data and an output for outputting a reply to a client disk drive, Burns cannot be used as the examiner suggests to supplement the disclosure of Trieger.

The rejection of the remaining claims should be withdrawn for at least the reasons set forth above.

CONCLUSION

In view of the above remarks, the finality of the office action should be withdrawn, and the rejections under 35 USC §103 should be withdrawn. The examiner is encouraged to contact the undersigned over the telephone in order to resolve any remaining issues that may prevent the immediate allowance of the present application.

Respectfully submitted,

Date: 9/20/05 By: _____

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

9/20/05 Howard H. Sheerin
(Date) (Print Name)

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(Signature)